

DOCKET FILE COPY ORIGINAL

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Access Charge Reform

)
)
)

CC Docket No. 96-262

RECEIVED

FEB 14 1997

REPLY COMMENTS OF SPRINT CORPORATION

SPRINT CORPORATION

Leon M. Kestenbaum
Jay C. Keithley
H. Richard Juhnke
1850 M Street, N.W., 11th Floor
Washington, D.C. 20036
(202) 828-7437

February 14, 1997

No. of Copies rec'd
List ABCDE

OHG

TABLE OF CONTENTS

SUMMARY.....	ii
I. INTRODUCTION	1
II. ACCESS REFORM FOR INCUMBENT LOCAL EXCHANGE CARRIERS (¶¶50-54).....	5
III. RATE STRUCTURE MODIFICATIONS (¶¶55-139).....	10
B. Common Line (¶¶57-70).....	10
C. Local Switching (¶¶71-79).....	13
D. Transport (¶¶80-95).....	14
E. Transport Interconnection Charge (¶¶96-122).....	16
IV. APPROACHES TO ACCESS RATE REFORM AND DEREGULATION (¶¶140-160).....	19
V. MARKET-BASED APPROACH TO ACCESS REFORM (¶¶161-217).....	23
VI. PRESCRIPTIVE APPROACH TO ACCESS REFORM (¶¶218-240).....	27
VII. TRANSITION ISSUES (¶¶241-270).....	27
VIII. CONCLUSION	29
ATTACHMENT	

SUMMARY

Sprint's access reform plan cuts a reasonable middle ground between the extreme proposals of some RBOCs that seek instantaneous deregulation while proposing bulk billing devices to maintain every cent of their existing access revenue streams, and the proposals of some IXCs that would make deep cuts in those revenue streams overnight. Sprint's plan calls for both rate structure reform, to place access charges on a more cost-causative basis by recovering non-traffic-sensitive costs on a per-loop basis, and prescriptive relief to bring carrier access charges down to TELRIC levels within a reasonable period, while not imposing undue hardship on ILECs. This plan is not heavy handed government regulation but instead is simply a responsibly managed transition from a monopoly to a more competitive environment.

Sprint does not object to lessening the Commission's regulation of access charges as competitive circumstances warrant, but the record is clear that there is simply insufficient competition today -- and little prospect for sufficient competition in the near future -- to warrant all the measures proposed in the NPRM, not to mention the far greater deregulation sought by the RBOCs. The only relief that is warranted at this time is geographic deaveraging of access charges. From Sprint's perspective as an ILEC with over seven million access lines, that is all the pricing flexibility that is reasonably needed until the Commission has a chance to observe how local competition develops and whether that competition in fact results in market-based reform of access charges. However, until local competition develops to a far greater degree than exists today (and is likely to exist in the near term future), the sort of "market-based" reforms sought by the RBOCs would in reality be "monopoly-based" instead.

Where there is competition, "market" solutions are generally preferable to "regulation" or "prescription." However, if there is no meaningful competition, there can be no "market" solution because there is no market. Thus, in determining how to proceed with access reform -- an effort that is of critical importance to all segments of the industry -- the Commission should ignore all these labels, and instead adopt an access reform plan, such as Sprint has proposed, that is consistent with the facts as they exist and with the procompetitive objectives of the 1996 Act.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket No. 96-262
Access Charge Reform)	

REPLY COMMENTS OF SPRINT CORPORATION

Sprint hereby responds to the comments of other parties on the all-important issue of access reform. Given the number and length of comments,¹ and the brief time afforded for reply comments, Sprint has focused its attention primarily on the comments of other major IXC's and LEC's, and will largely confine its reply to the contentions of those parties.

I. INTRODUCTION

In its initial comments (at 2-7), Sprint explained that the current structure of local service carrier pricing is seriously amiss. Basic local service rates for residential subscribers have often been kept at artificially low levels, and supported with above-cost rates for other services: local business lines, optional service features, and interstate and intrastate access. This pricing scheme has resulted, inter alia, in heavy taxation of toll services which are relatively price-elastic, in order to keep rates artificially low for the basic connection to the network, which is almost perfectly price-inelastic. Consequently, consumers make far fewer

¹ By Sprint's count, more than 100 comments were filed, and many comments, including all attachments, run well in excess of 100 pages.

toll calls -- and are charged substantially higher rates for such calls -- than would be the case if both access charges and local service were priced at cost.

At the same time, the current access regime places ILECs at a substantial competitive risk from carriers attempting to enter the local market through facilities-based alternatives or the use of unbundled network elements ("UNEs"): IXC's are irresistibly lured by the existing access charge structure to attempt to provide local service in one of these two ways to their high-volume toll customers in order to minimize such charges. Such entry, even if successful in capturing only a relative handful of high-toll-usage local customers, can deprive ILECs of a substantial percentage of the access revenues they receive today, and, to the extent such revenues have been used to support universal service, a substantial amount of such support.²

Also, the current pricing structure seriously inhibits the development of local competition in the residential market. With resale discounts based only on avoidable costs, no local competitor can hope to be profitable simply by offering service on a resale basis. Yet, no local competitor can undertake the cost of offering facilities-based service and hope to compete against below-cost residential rates of existing ILECs. And for the same reason, below-cost residential rates preclude CLECs from using UNEs except to serve a small handful of residential customers that have very high toll usage.

In short, today's LEC pricing structure not only burdens long distance carriers unfairly, but also limits the realistic scope of local residential competition, and also places substantial

²In the case of the Sprint LECs, the ten percent of their customers making or receiving the highest volume of toll calls account for nearly half of all carrier common line ("CCL") revenues, and just .7% of their business customers generate nearly one-fourth of business CCL revenues. Sprint's Comments, Exhibit 1.

ILEC revenues at serious risk. It is a structure that is irreconcilable with both economics and the sound, pro-competitive public policy embodied in the Telecommunications Act of 1996 that both this Commission and the states are bound to implement.

Much of this problem is under the control of the state regulatory commissions, and is beyond the scope of this proceeding. However, the current level and structure of interstate access charges are part of the problem, and this Commission can provide a much needed example of leadership to the states by reforming both the level and structure of interstate access charges. To this end, Sprint has proposed a plan that it believes would fairly accommodate the interests of all stakeholders in this proceeding:

- Immediately transfer all carrier common line and non-traffic sensitive switching costs to the Subscriber Charge.
- Require all the price cap ILECs to submit TELRIC cost studies, and to transition their usage-sensitive switching charges and transport charges to TELRIC levels within five years.
- Apply the annual price cap productivity factor against the TIC until it is reduced to zero. In the meantime, the TIC should not be assessed in cases where the transport is provided by an alternative access vendor.
- Any increase in explicit universal service funds received by an ILEC should be offset dollar for dollar by reductions in the TIC and in the difference between current and TELRIC-based rates for usage-sensitive switching and local transport.

This plan, if adopted, would immediately cut nearly in half the interstate access charges paid by long distance carriers. The increased charge on end-users resulting from this plan would, for a large number of them, be offset or more than offset by the lower toll charges they would pay. Despite all the RBOC rhetoric about IXC "lock-step" rate increases, the fact

is, as the Commission's data recognize, IXC rates continue to fall faster than the access charges they pay.³ This is certainly consistent with Sprint's experience: in its 1996 financial results released last week, Sprint reported that its long distance minutes of use in the fourth quarter of 1996 increased by 21% from the same quarter of 1995, yet long distance revenues had increased by only 12.3% -- reflecting a continuing and substantial decline in the average rate paid by its long distance customers. And other carriers have publicly committed to pass through any reductions in access charges resulting from this proceeding through reductions in their toll rates.⁴ Thus, the increase in flat charges to the public Sprint has proposed would be offset in full by lower toll charges. And as the remainder of access charges are reduced to TELRIC levels, consumers would be better off as a whole than they are today, and would pay less than they now do for their total communications bills. For those consumers who face hardship circumstances, either because of their income levels or because they are located in high cost areas, competitively neutral universal service funding, being considered in CC Docket No. 96-45, should provide an adequate safety net.

Sprint's plan would reduce all other access charges to TELRIC-based levels -- and eliminate the TIC through targeting the price cap productivity factor against this rate element -- in roughly a five-year time frame.⁵ And, if the ILECs receive increased explicit universal

³ See Jim Lande, Industry Analysis Division, Common Carrier Bureau, "Telecommunications Industry Revenue: TRS Fund Worksheet Data, " December 1996 at 9.

⁴ See AT&T at 14 and MCI at 6.

⁵ Sprint estimates that the TIC of most price cap carriers would be eliminated in less than five years, while for three carriers (Lincoln, NYNEX and U S West) the TIC phase-out would take seven years to complete. See Comments, Exhibit 8.

support funding as a result of the Commission's determinations in CC Docket No. 96-45, the offsetting reductions in interstate access charges could result in a much shorter phase down of access charges to TELRIC levels. At the end of the transition, carrier access charges would be roughly one-fourth of current levels, permitting significantly lower rates for toll services, eliminating the disparity in telecommunications costs as between conventional services and information services (such as the Internet), and placing ILEC cost recovery on a sounder economic footing.

While a wide range of approaches to access reform were proposed by other parties, Sprint continues to believe that its approach is economically sound, will foster consumer benefits, and will facilitate meaningful and fair competition in both the long distance and local markets. The balance of these reply comments will follow the outline of the Commission's NPRM.

II. ACCESS REFORM FOR INCUMBENT LOCAL EXCHANGE CARRIERS (¶¶50-54)

In its initial comments, Sprint reiterated its past opposition to the imposition of access charges on purchasers of unbundled network elements, pointing out at the same time that this Commission and state regulators must engage in simultaneous cost-causative recovery of non-traffic-sensitive costs, rate rebalancing to the retail end-user customer and universal service reform, in order to avoid subjecting ILECs to the risk of serious shortfalls in revenues that are today used at least in part to support universal service objectives.

Except for Bell Atlantic and NYNEX, all the other major ILECs would assess interstate access charges, to some degree, on purchasers of UNEs. Some of those carriers (BellSouth, GTE, Pacific and U S West) would do so explicitly, while Ameritech and SWB

would do so implicitly by instituting make-whole rate elements that would be assessed on measures, such as retail toll revenues or revenues paid to ILECs for access on UNEs, that encompass traffic originated or terminated on UNEs.

None of the parties arguing for explicit application of access charges to purchasers of UNEs offers any compelling basis for doing so. Pacific contends simplistically (at 12) that "[a]ccess services and unbundled network elements offer like access to the local network and they, therefore, must be priced at like levels to avoid unlawful discrimination." However, by applying access charges on top of the charges for unbundled rate elements, Pacific is not proposing to price at "like" levels, but instead is proposing to overcharge purchasers of unbundled network elements. This is clearly erroneous. It would be akin to saying that since the rental of an automobile and the purchase of an automobile both provide like transportation, anyone who buys an automobile should also be required to pay rental charges on top of the purchase price. Furthermore, a purchaser of unbundled network elements is buying more -- and paying the costs of what it is buying -- than mere access for interstate calls. As the Commission held in its Interconnection Order,⁶

When exchange carriers purchase unbundled elements from incumbents they are not purchasing exchange access "services." They are purchasing a different product, and that product is the right to exclusive access or use of an entire element.

Thus, when UNEs are used to originate or terminate toll calls, it is the purchaser of the UNEs, not the ILEC, that offers exchange access using those facilities. Id. at ¶333 and n.772 at ¶363. As Sprint pointed out in its initial comments (n.7 at 9), and as the automobile analogy

⁶ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order released August 8, 1996 (FCC 96-325), ¶358.

illustrates, allowing ILECs to assess access charges to purchasers of UNEs would result in over-recovery by ILECs. The Commission's standard for pricing UNEs was developed with great care in the Interconnection Order. To charge more for UNEs than rates based on that standard would negate the standard itself and would inhibit the emergence of local competition.

Pacific also argues (52-58) that access charges have been set above cost to cross-subsidize universal service goals and that until access charges are priced consistently with prices for unbundled network elements, purchasers of unbundled network elements must continue to pay the difference between the cost of the unbundled network elements and the access charges they otherwise would have incurred. Sprint, as a corporation that includes extensive ILEC operations, shares the concern expressed by Pacific that much of its carrier common line revenues under the current rate structure are in jeopardy if just a small fraction of its local customers are diverted by competitors purchasing unbundled network elements. However, the answer to this legitimate concern is not to force purchasers of unbundled network elements to pay twice for the same facilities -- once, through the cost-based prices for UNEs and again for access that is in fact no longer being provided by the ILEC. Doing so simply would allow ILECs to raise rates to their rivals, a measure that would be antithetical to antitrust policy and to the pro-competitive purpose of the 1996 Act. Instead, the solution to this dilemma is cost-causative recovery of loop costs (discussed in Section III below), removing all implicit subsidies from access charges as Section 254 of the Act compels, and making all service providers -- long distance and local, CLEC and ILEC alike -- contribute to the support of universal service through a competitively neutral funding mechanism.

BellSouth (at 13) would apply access charges to purchasers of UNEs in two circumstances: (a) if the prices for UNEs are not based on "actual" costs (by which Sprint assumes BellSouth is referring to historical embedded costs), and (b) if the purchaser of UNEs combines them to provide retail services to end users, which BellSouth likens to simple resale for which access charges continue to apply. BellSouth's first point is that if ILECs recover less than their embedded costs from UNEs, then failing to charge access to purchasers of UNEs will mean that they will not have an opportunity to recover the interstate-allocated share of these costs. However, it cannot be assumed, at this juncture, that after access reform and universal service reform have been completed, BellSouth will not have a reasonable opportunity to recover all of its interstate-assigned costs, without having to assess charges on purchasers of UNEs. Sprint's plan, for example, would allow recovery of embedded NTS costs assigned to the interstate jurisdiction from a Subscriber Charge. And even if there is some shortfall in the ILECs' recovery of interstate costs, the amount attributable to UNEs purchased by CLECs is likely to be de minimis.

BellSouth's second case for applying access charges to purchasers of UNEs is simply a back door attempt to re-argue its already rejected notion that rebundling of unbundled network elements should be treated just like resale. The Commission held in the Interconnection Order that purchasers of unbundled elements, on the one hand, and purchasers of end user service offerings at wholesale rates for resale, on the other, are buying far different products under different pricing standards and with different risks and rewards,

and that CLECs may combine all UNEs needed to provide local service and may offer exchange access using those facilities.⁷

U S West (at 54) and GTE (at 32-33) both argue for applying the subscriber line charge and carrier common line charge (to the extent it continues to exist) to the purchasers of unbundled loops. However, they, too, are arguing against the Interconnection Order. The Commission held that imposing access charges on top of charges for UNEs would violate the pricing standard of §251(d) (¶353) and that if the ILEC charges a SLC, it would over-recover its costs (¶364).

While, as noted above, Ameritech and SWB do not argue explicitly for application for access charges to purchasers of unbundled network elements, they propose cost recovery mechanisms, to account for the difference between embedded and forward-looking costs, and couched (in SWB's case) in the euphemism of a "public policy" element, that would be charged on the basis of interstate retail service revenues (Ameritech at 11), or as a surcharge on ILEC charges for the purchase of switched transport or transport UNEs (SWB at 16). These mechanisms would, in effect, apply access charges to UNEs. Any cost recovery element based on total IXC retail revenues would mean that IXCs would incur these costs regardless of whether they used the ILEC for access or instead used a CLEC that had purchased UNEs from the ILEC. Similarly, recovering costs on the basis of a surcharge on ILEC rates for transport UNEs, proposed by SWB, is a direct tax on purchasers of UNEs. While Sprint will discuss below the other infirmities of these and other "make-whole" rate elements, it is sufficient to note, for present purposes, that such rate elements have the effect

⁷ See Interconnection Order at ¶¶332-334.

of imposing access charges on purchasers of UNEs or IXC's that obtain access from such purchasers. Furthermore, they constitute the sort of non-competitively-neutral universal support mechanisms that are prohibited by §254 of the Act.

III. RATE STRUCTURE MODIFICATIONS (§§55-139)

B. Common Line (§§57-70)

In its comments, Sprint proposed flash-cut elimination of the carrier common line charge, with an increase in the subscriber line charge to fully recover the loop costs assigned to the interstate jurisdiction. Although there is no unanimity on this issue, if there is anything approaching a consensus of major IXC's and major LEC's on any issue in this proceeding, it is that the optimum way of recovering loop costs would be to recover those costs entirely through the subscriber line charge. This approach is supported by five of the RBOC's⁸ and GTE (at 32). It is also supported by four of the five largest long distance carriers.⁹ In addition, elimination of the CCLC is supported by the Ad Hoc Telecommunications Users Group (at 10). As WorldCom succinctly put it (id.): "We urge the Commission to do what it knows is right."

It may be noted that the only major IXC not to propose an increase in the SLC is MCI. With its draconian approach to access reform, reducing all rates on a flash-cut basis to what it believes to be TELRIC costs, the common line revenue requirement would be cut by enough to eliminate the carrier common line charge and reduce the existing subscriber line

⁸ Bell Atlantic/NYNEX at 33; Southwestern Bell at 7, 35; Pacific at 61; and U S West at 54.

⁹ In addition to Sprint, recovery of loop costs by the SLC is supported by AT&T at 51, Frontier at 4-6, and WorldCom at 33.

charge as well. This approach, of course, raises highly contentious issues about confiscation and recovery of embedded costs that would be defused by Sprint's plan. Sprint would assign all of the current embedded common line revenue requirements (and, in addition, embedded non-traffic-sensitive switching costs) to a re-named Subscriber Charge. Assigning embedded costs to this charge eliminates a substantial amount of the controversy over whether the ILECs are being forced to eat "real" costs. Furthermore, by placing the recovery of these embedded costs directly on end-users, it is the approach most likely to result in eventual reduction of these costs through competitive pressures. As discussed in its initial comments (33-35), Sprint is skeptical as to whether local competition will result in ubiquitously available cost-based charges. Where competition will be felt most directly, however, is in the charges to end users for local service. Placing embedded-cost revenue requirements on local subscribers is more likely to result in competition-induced cost cutting.¹⁰

Sprint presented extensive data in its initial comments indicating that an increase in the charge to consumers for connection to the network is affordable and would result in more than offsetting benefits in the form of lower charges for more elastic services. See Comments at 5-7 and Exhibit 2. And in the case of consumers for whom an increase in network connection charges would be a genuine hardship, universal service funding should provide a safety net. However, there is no reason to depart from cost-causative pricing for the vast majority of consumers who can, and should be expected to, pay the costs of the services they

¹⁰ Compare ALTS at 27 ("the ILECs should be free to charge their end users for any amounts that are necessary to ensure their constitutionally minimal recovery...").

are receiving. Again, as WorldCom so aptly put it: "We urge the Commission to do what it knows is right."¹¹

Most of the major carriers (local and long distance) that do not advocate an increase in the subscriber line charge to replace the CCLC propose converting the CCLC from a usage-based charge to a flat charge per presubscribed line. This is clearly the best alternative of those proposed in the NPRM, and it is supported as a "fall-back" position by many of the proponents of higher subscriber line charges.

Ameritech (at 10) and GTE (at 29) argue against per-loop recovery of the CCLC on the basis that it would give IXC's an incentive to use alternative access providers. Yet both of these parties champion a so-called "market-based" approach and seek substantial deregulation of access. To argue, as they do, that their recovery of loop costs must be insulated from the effects of competition is hypocritical and shows the danger of putting too much stock in the "market-based" rhetoric of some ILECs.

The only notable exception to flat-rated recovery of non-traffic-sensitive costs is the proposal of Ameritech which, after admitting (at 10) that these are end-user costs, proposes that carrier common line, non-traffic switching costs, and white pages costs should be recovered through a Loop/Port Recovery charge assessed on IXC's on the basis of statewide or region-wide interstate retail service revenues. There is absolutely no relationship between the causation of these costs and retail toll revenues. Recovery of these costs on this basis

¹¹ Many other parties support Sprint's view that the proposal to increase the SLC only for multi-line businesses and second and additional residential lines would be impossible to effectively administer because of the difficulty of policing a differentiation between first and additional residential lines. See e.g., Bell Atlantic/NYNEX at 33, BellSouth at 69, Frontier at 7-8, and U S West at 56-57.

would not only continue the same inefficiencies resulting from the current recovery of these costs on a usage basis, but would also insulate the ILECs from the forces of competition.

Long distance carriers that entered the local market through UNEs or their own facilities, or that purchased access from other CLECs, would still have to pay Ameritech regardless of the extent to which they utilized Ameritech's loops or switching. That Ameritech would even float such a blatantly anticompetitive proposal at a time when it is the first RBOC attempting to obtain in-region long distance authority shows either a lot of nerve, or an utter misunderstanding of what competition is all about.

C. Local Switching (§§71-79)

The same reasons that warrant end-user recovery of non-traffic-sensitive loop costs (or failing that, recovery on a per-line basis from IXC's) apply with equal force to non-traffic-sensitive local switching costs as well, and the parties that support the former tend to support the latter. As discussed above, Ameritech's proposed Loop/Port Recovery Charge (which would be used to recover these costs) is blatantly anticompetitive and does not merit serious consideration.

With respect to call set-up, only a few parties propose to require a separate call set-up charge. See e.g., Ameritech (at 15-16) and Pacific (at 68). In its comments (at 19 and Exhibit 7), Sprint pointed out that set-up costs are so small in relation to the total costs of a typical call (on the order of 2-6%) that this refinement is not worth the added administrative burden in establishing systems to measure and bill for call set-up on a carrier-specific basis. Pacific (*id.*) asserts that the set-up costs are far greater than Sprint estimated: an astounding five

times the per-minute cost of switching. However, Pacific provides no support for its estimate, and thus it is entitled to no weight by the Commission.

No party appears to favor mandatory peak/off-peak rates for usage-related switching costs, and in view of the practical difficulties in administering such a rate structure, detailed in Sprint's comments at 19-20, there is no warrant for such a rate structure.

D. Transport (¶¶80-95)

The main controversy regarding the structure of local transport rates is whether the unitary structure for tandem switched transport, in which a per-minute rate is charged based on airline distance from the serving wire center to the end office, should be maintained, or instead whether the ILECs should be allowed (or required) to offer tandem switched transport exclusively on a bifurcated basis, in which case IXCs would have to use direct trunks from the serving wire center to the tandem switch, and then usage-based transport rates from the tandem switch to the end office. Although Sprint does not object to the bifurcated rate structure as an option, it submits that removal of the unitary rate structure from switched transport cannot be justified.

Not surprisingly, many of the RBOCs and AT&T continue to advocate a mandatory bifurcated structure, as they did in CC Docket No. 91-213. However, despite the familiarity of these issues to all concerned parties, none of the proponents of the bifurcated structure comes to grips with the discrimination inherent in requiring purchasers of tandem switched transport to pay for circuitry (by having to pay separate mileage-based rates from the serving wire center to the tandem, and then from the tandem to the end office) while purchasers of so-called "direct" trunks -- which may in fact be routed just as circuitously or even more so as

tandem switched transport -- can still avail themselves of rates based on airline mileage from the serving wire center to the end office. This discriminatory treatment of circuitry as between the bifurcated structure for tandem switched transport and airline-mileage-based direct trunk rates is becoming even more anomalous as local carriers increasingly employ fiber rings in their interoffice networks. When a fiber ring is used, all traffic -- tandem switched and direct trunked -- share the same transmission path around the ring, and the actual distance traversed is largely a matter of happenstance (which direction around the ring traffic happens to be routed at any particular moment). As Sprint pointed out in its initial comments (at 21), transport rates should be less distance-sensitive, and based more on the number of rings traversed. Until rate structures are fashioned to reflect this change in local network architecture, it is anomalous and unfair to require some, but not all users, of the local interoffice network to pay for "actual" routings.

The principal argument raised against the unitary rate structure is the alleged problem of excessive capacity (or underutilized circuits) between the serving wire center and the tandem office. However, as Sprint proposed (Comments at 25), this problem can easily be addressed by allowing the ILEC to size the trunk bundles between the serving wire center and the tandem switch so as to achieve a reasonable utilization factor, and to make IXCs that desire a larger number of trunks adequately compensate the ILECs for the excess capacity, for example, by employing a minimum monthly usage charge or by requiring "excess" trunks to be paid for separately.

The IXCs that have supported the unitary structure never asked the Commission to adopt this structure as a "gift" to smaller IXCs. Instead, this structure properly recognizes

that it is unfairly discriminatory against smaller IXCs, who perforce must make greater reliance on tandem switched traffic than larger carriers, to treat physical routings differently as between tandem switched transport and "direct" trunks. The unitary structure also removes the ILECs' incentive to place the tandem switches inefficiently (in order to maximize revenues from trunks going to and from the tandem location), and gives the ILECs the incentive to efficiently size and utilize the trunk bundles involved in both segments of tandem switched transport. At the time these issues were considered and resolved in favor of the unitary structure in CC Docket No. 91-213, the primary beneficiary of a mandatory bifurcated structure would have been AT&T. Now, with the RBOCs' interest in entering the long distance market in-region, they, too, would be the beneficiaries of such a structure vis-à-vis other IXCs. Because of their heavy volumes of intraLATA traffic, the RBOCs' toll revenues in 1995 exceeded those of Sprint.¹² Once the RBOCs are allowed to handle interLATA traffic, they could quickly become second only to AT&T in size within their regions, thus permitting the RBOCs more than any carrier except for AT&T, to take advantage of direct trunking to the maximum number of end offices.

E. Transport Interconnection Charge (§§96-122)

In Sprint's comments (at 28-30), it proposed that the TIC be phased out by applying the entire price cap productivity factor against the TIC until it is reduced to zero, and that ILECs be prohibited from assessing the TIC with respect to traffic transported by alternative access vendors. Sprint estimated that, even assuming no reductions in the size of the TIC

¹² Industry Analysis Division, Common Carrier Bureau, "Long Distance Market Shares, Third Quarter 1996," Table 5.

from any other source (e.g., reassignment of costs, removal of signaling revenues, or applying increased universal service funding against the TIC), this procedure would eliminate the TIC in a period of five years or less for all but three of the price cap LECs.¹³ Several RBOCs would also phase out the TIC by targeting the price cap productivity factor (Ameritech at 22, Bell Atlantic/NYNEX at 38, and Pacific at 72). The other parties propose a variety of approaches to the TIC, ranging from flash-cut elimination (e.g., MCI at 86-87, AT&T at 58-59) to maintaining some form of TIC (after allocating certain costs to other access elements) for the indefinite future and bulk billing the remaining TIC in some fashion to IXC's (e.g., BellSouth at iii).

Depending on the outcome of the Commission's universal service reform proceedings in CC Docket No. 96-45, it may be possible to eliminate the TIC immediately if the increases in explicit universal service funding to price cap LECs, and offsetting reductions in their interstate access charges, are large enough. And, with one exception discussed below, Sprint does not object, in principle, to reallocating costs now in the TIC to other access elements. However, at the same time, it sees little benefit from doing so. Reallocation of costs that are now in the TIC to other elements would simply serve to widen the gap between the revenue requirements for those elements and TELRIC-based rates for those elements. It would be akin to squeezing a balloon on one end only to have the balloon expand at the other end. Sprint believes that its proposal to phase out the TIC by targeting the entire price cap productivity factor against the TIC would eliminate the TIC within a reasonable period of time, without the need to explore in any detail what costs are in the TIC and without

¹³ For those three LECs, the TIC would be eliminated within seven years.

undertaking complex and possibly contentious reforms of Part 69 cost allocations and Part 36 separations rules. Furthermore, prohibiting the application of the TIC in circumstances where an alternative access vendor's transport network is used would eliminate the competitive unfairness that now exists and that guarantees substantial revenues to ILECs even when their transport networks are bypassed entirely.

The one cost reallocation suggested by many RBOCs¹⁴ that Sprint believes is unwarranted is the assignment of all of the tandem switching revenue requirements now recovered in the TIC to the tandem switching rate element. A rate for tandem switching that recouped this entire revenue requirement might well produce lower tandem switching revenues for the ILECs, because tandem switching charges would be so high as to render the use of tandem switching uneconomic for the IXC's. Moreover, there is already serious concern that existing tandem switching rates reflect far more than a reasonable allocation of overhead costs to that rate element. This was one of the grounds for the court's remand of the Commission's transport rate restructuring decisions in CompTel v. FCC, 77 F.3rd 522 (D.C. Cir. 1996). Sprint believes instead that the tandem switching charge should be based on TELRIC costs (which Sprint believes differ little from today's tandem switching charges) and that the other revenue requirements assigned to tandem switching under current rules should be left to the phased-out TIC.

Pending elimination of the TIC, Sprint proposes that the TIC continue to be recovered on a per-minute basis, rather than by using the bulk billing mechanisms proposed by the RBOCs, such as presubscribed lines (Bell Atlantic/NYNEX at 37-38, and BellSouth at iii) or

¹⁴ E.g., Ameritech at 18, U S West at 65.

retail IXC revenues (Ameritech at 21, Pacific Bell at 72). Recovering these costs on a presubscribed line basis would insulate ILECs from the pressure of competition: they would receive the TIC even if alternative access vendors were used instead for transport. And since the TIC charge would be a fixed charge per line, an IXC that exclusively used AAVs for transport would still pay the same TIC to the ILEC as an IXC that used the ILEC for transport. Bulk-billing on the basis of the IXCs' retail revenues shares this same anticompetitive infirmity. The ILECs would be paid based on the IXCs' total revenues regardless of whether the IXCs used ILECs exclusively for transport or used alternative access vendors for a portion of their transport needs. This amounts to a guaranteed make-whole approach for ILECs that should have no place in the competitive environment the Commission seeks to foster. The only way to place competitive pressure on the TIC is for the incumbent LECs to realize that they will not receive those revenues if alternative carriers are used for transport instead. Sprint's proposal gives a meaningful competitive impetus to the transport market, whereas the RBOCs' approaches seek to preserve monopoly profits and monopoly-based revenue requirements even after competition is present.

IV. APPROACHES TO ACCESS RATE REFORM AND DEREGULATION (140-160)

In Section IV of its comments, Sprint expressed considerable doubt as to whether either facilities-based or UNE-based competition could be relied on to lower access charges ubiquitously. Other carriers that, like Sprint, are attempting to enter the local market as a competitive local exchange carrier share that doubt. These parties discuss the practical difficulties they are encountering in entering the market through the purchase of unbundled network elements. See e.g., AT&T at 44-45 and MCI at 37-41. There are significant

business uncertainties in entering the market through the purchase of unbundled network elements because the legal standards to be applied are in doubt (owing to the pending appeals of the Commission's Interconnection Order). Furthermore, the state arbitrations establishing rates for UNEs have thus far established only interim rates, which leaves substantial doubt and uncertainty as to what the ultimate rates for UNEs will be. Even if these business uncertainties were resolved, the reliance on unbundled network elements from ILECs is a practical impossibility until the ILECs offer electronic interfaces to operations support systems that give CLECs a seamless interface into the preordering, ordering, and service and maintenance processes. The types of systems that are needed in order to permit entry through the purchase of unbundled network elements simply do not exist today. Most of the RBOCs' efforts to provide electronic interfaces to operations support systems (OSS) have been geared towards the much simpler service resale -- a form of entry that provides no pressure on ILEC access charges -- and even these systems are inadequate. Sprint has joined with other carriers to form the Local Competition Users Group in order to monitor and report on the progress the RBOCs and GTE are making towards implementation of the necessary OSS interfaces. In announcing the formation of this group earlier this week, the participants noted the utter lack of such interfaces for purchase of UNEs. See Attachment. Thus, effective local competition through the purchase of UNEs is far from a reality today, and even if it could be assumed that competition from purchasers of UNEs could effectively drive all access charges to costs, any such competition is far from being just around the corner.

It is not only the IXC customers of interstate access that assert that the so-called "market-based" approach to access reform cannot be relied on to accomplish the goal of cost-

based access charges. A number of user groups and state utility authorities also agree that market based solutions simply will not work at the present time. See e.g., Ad Hoc at 35, American Petroleum Institute at 6, Competition Policy Institute at 9-10 ("CPI feels compelled to point out the emperor is not fully clothed"), DC PSC at 2-3, NARUC at 10 ("nascent competitive markets need to evolve significantly before they provide the needed discipline on LEC access charge regimes"), and Texas PUC at 23-24.

The exaggerated claims of the RBOCs that robust competition exists today are simply not true, and are largely unsupported. As Sprint pointed out in its initial comments (at 37-38), less than two percent of its access dollars today go to carriers other than ILECs. Pacific claims (at 12-15) that at least in its service area, there is substantial competition. It argues that its market share in San Francisco and Los Angeles for special access high capacity facilities is down to 54%, that collocation cross-connects total 20,700 DS1 equivalents, and that in December 1996 it terminated 101 million minutes from CLECs. These statistics are meaningless.

In the first place, measuring market share by the number of circuits (as Pacific apparently has done) can be misleading. Unless those circuits are end-to-end, i.e., bypass the ILEC altogether, either the IXC or the AAV must purchase circuits from the ILEC to reach the end user's premises, and the ILEC still obtains substantial revenues. In any case, Sprint finds Pacific's claim that it has lost nearly half of its special access business in Los Angeles and San Francisco hard to believe. AAVs account for only 5.7% of Sprint's special access payments in the Los Angeles LATA, and only 7.7% in the San Francisco LATA. Overall,